



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA CERTIFIED MAIL**

**MAY 16 2007**

Mr. Jack Orchulli

[REDACTED]  
Darien, CT 06820-3031

RE: MUR 5728  
Friends of Jack Orchulli and Jack Orchulli,  
in his official capacity as treasurer

Dear Mr. Orchulli:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on April 6, 2006, the Federal Election Commission ("the Commission") found reason to believe that Friends of Jack Orchulli and Jack Orchulli, in his official capacity as treasurer, violated 2 U.S.C. §§ 434(a)(6)(B) (iii) and (iv) and 11 C.F.R. §§ 400.21(a) and 400.22(a).

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations of 2 U.S.C. §§ 434(a)(6)(B) (iii) and (iv) and 11 C.F.R. §§ 400.21(a) and 400.22(a) have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible. The General Counsel's brief and any brief that you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

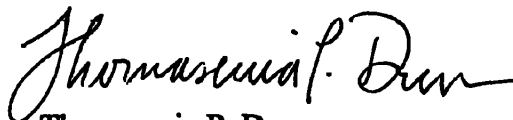
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Please be advised that you have the opportunity to request an oral hearing before the Commission at this stage of the enforcement process. *See* Commission's "Policy Statement Establishing a Pilot Program for Probable Cause Hearings," 72 Fed. Reg. 7551 (Feb. 16, 2007). Hearings are voluntary and no adverse inference will be drawn by the Commission based on a respondent's request or waiver of such a hearing. Any request for a hearing must be submitted along with your reply brief and must state with specificity why the hearing is being requested and what issues the respondent expects to address. The Commission may or may not grant a request for a hearing.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Delbert Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, reading "Thomasenia P. Duncan".

Thomasenia P. Duncan  
General Counsel

Enclosure  
Brief

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**MUR 5728**

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On April 6, 2006, the Federal Election Commission (“Commission”) found reason to believe that the Friends of Jack Orchulli and Jack Orchulli, in his official capacity as treasurer (the “Committee”), violated 2 U.S.C. § 434(a)(6)(B)(iii) and 11 C.F.R. § 400.21(a) by failing to timely file an initial notification of personal expenditures of \$540,000 after exceeding the threshold reporting requirement and 2 U.S.C. § 434(a)(6)(B)(iv) and 11 C.F.R. § 400.22(a) by failing to timely file three additional notifications of personal expenditures totaling \$500,000. Based on the following factual and legal analysis, this Office is prepared to recommend that the Commission find probable cause to believe that Friends of Jack Orchulli and Jack Orchulli, in his official capacity as treasurer, violated 2 U.S.C. §§ 434(a)(6)(B)(iii) and (iv) and 11 C.F.R. §§ 400.21(a) and 400.22(a).

In January 2004, Jack Orchulli filed an FEC Form 2, Statement of Candidacy, in connection with his candidacy for United States Senate from Connecticut. On this form, Mr. Orchulli indicated that he intended to spend \$500,000 above the threshold amount in the

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1 general election from his personal funds.<sup>1</sup>

2 Between May 14, 2004 and October 11, 2004, Mr. Orchulli made a total of \$1,040,000 in  
3 loans to the Committee, all of which were designated for the general election. These loans were  
4 all reported on the appropriate quarterly disclosure reports. Mr. Orchulli made loans to Friends  
5 of Jack Orchulli (the "Committee") of \$30,000 each on May 14, 2004, June 4, 2004 and June 16,  
6 2004, respectively. On June 23, 2004, he loaned an additional \$450,000 to the Committee,  
7 bringing his personal loan total to \$540,000, and triggering and exceeding the reporting threshold  
8 requirement of \$511,840, which required the filing of a 24 Hour Notice of Expenditure from  
9 Candidate's Personal Funds ("FEC Form 10"). Thereafter, Mr. Orchulli loaned the Committee  
10 \$250,000 on September 13, 2004, \$100,000 on September 16, and \$150,000 on October 11,  
11 2004. Neither Mr. Orchulli nor the Committee timely filed an initial or additional FEC Form  
12 10's disclosing these expenditures from personal funds.

13 On October 7, 2004, the Commission sent a Request for Additional Information to the  
14 Committee requesting an explanation for the absence of the initial FEC Form 10 in connection  
15 with the candidate's expenditure of personal funds in the form of loans totaling \$540,000 as of  
16 June 23, 2004. On October 22, 2004, the Committee filed an FEC Form 10 regarding this  
17 expenditure. On October 22, 2004, the Committee also filed an FEC Form 10 for each of the two  
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<sup>1</sup> There was no Republican primary for U.S. Senate in Connecticut in 2004. In that state, a political party endorses a party candidate at its party convention. The Republican convention was held on May 8, 2004 and Jack Orchulli was endorsed as the party nominee. A primary election is only held if a qualified challenger to the party-endorsed candidate receives 15% of the delegate votes during the party convention and files for a primary or, if after the convention, a challenger files the required number of petitions to qualify for access to a primary ballot. Otherwise, the party-endorsed candidate is the party nominee.

1 candidate loans made in September 2004 and for the October 11, 2004 candidate loan.<sup>2</sup>

2 A Senate candidate or his principal campaign committee must notify the Secretary of the  
3 Senate, the Commission and each opposing candidate when the candidate makes an expenditure  
4 from personal funds exceeding two times the threshold amount.<sup>3</sup> 2 U.S.C. § 434(a)(6)(B)(iii);  
5 11 C.F.R. § 400.21(a). This notification must be received within 24 hours of the time such  
6 expenditure is made. *Id.* For each additional expenditure of \$10,000 or more, the Secretary of  
7 the Senate, the Commission and each opposing candidate must be notified by an FEC Form 10  
8 filing within 24 hours of the time such expenditure is made, and the filing must include, among  
9 other things, the date and the amount of the expenditure and the total amount expended as of the  
10 date of the filing. *See* 2 U.S.C. §§ 434(a)(6)(B)(iv) and (v); 11 C.F.R. § 400.22(a).

11 Mr. Orchulli's \$450,000 loan on June 23, 2004 caused his total personal expenditures for  
12 the general election to exceed \$511,840. By exceeding this amount, the Committee was required  
13 to file an FEC Form 10 with the Commission and send copies to the Secretary of the Senate and  
14 to the candidate's opponents within 24 hours of making the expenditure, or by June 24, 2004.  
15 The Committee did not file the initial FEC Form 10 until October 22, 2004, 120 days late.  
16 Therefore, this Office is prepared to recommend that the Commission find probable cause to

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<sup>2</sup> In a cover letter accompanying each of the notification forms, the Committee states that it faxed a copy of the FEC Form 10 to the Secretary of the Senate and to each of Mr. Orchulli's opponents. Thus, it appears that the Secretary of the Senate and Mr. Orchulli's three opponents did not receive any FEC Form 10's until October 22, 2004. In a March 19, 2007 letter to staff of this Office, Mr. Orchulli states that his campaign contacted all of the campaigns every time he made a contribution, but he has not presented any evidence demonstrating this contact.

<sup>3</sup> An expenditure from personal funds includes loans by the candidate to his authorized committee using personal funds. *See* 2 U.S.C. § 434(a)(6)(B)(i); 11 C.F.R. § 400.4(a)(2). The threshold amount for United States Senate candidates is the sum of \$150,000 plus an amount equal to the voting age population of the state multiplied by 4 cents. *See* 11 C.F.R. § 400.9. In the case of Connecticut in 2004, the threshold amount was \$255,920 (\$150,000 + (2,648,000 x .04)). Thus, an amount that is two times the threshold amount is \$511,840 (\$255,920 x 2).

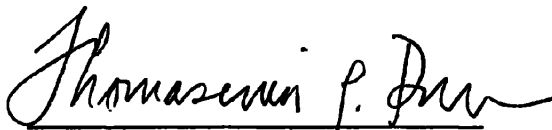
1 believe that Friends of Jack Orchulli and Jack Orchulli, in his official capacity as treasurer,  
2 violated 2 U.S.C. § 434(a)(6)(B)(iii) and 11 C.F.R. § 400.21(a).

3 In addition, the Committee failed to timely file additional FEC Form 10's regarding  
4 Mr. Orchulli's loans on September 13, 2004, September 16, 2004 and October 11, 2004, each of  
5 which was in excess of \$10,000. The Committee filed the FEC Form 10's for these loans on  
6 October 22, 2004, 38 days, 35 days and 10 days late, respectively. Therefore, this Office is  
7 prepared to recommend that the Commission find probable cause to believe that Friends of  
8 Jack Orchulli and Jack Orchulli, in his official capacity as treasurer, violated 2 U.S.C.  
9 § 434(a)(6)(B)(iv) and 11 C.F.R. § 400.22(a).

10 **III. GENERAL COUNSEL'S RECOMMENDATIONS**

- 11 1. Find probable cause to believe that Friends of Jack Orchulli and Jack Orchulli, in his  
12 official capacity as treasurer, violated 2 U.S.C. § 434(a)(6)(B)(iii) and 11 C.F.R.  
13 § 400.21(a).  
14  
15 2. Find probable cause to believe that Friends of Jack Orchulli and Jack Orchulli, , in his  
16 official capacity as treasurer, violated 2 U.S.C. § 434(a)(6)(B)(iv) and 11 C.F.R.  
17 § 400.22(a).  
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19 May 15, 2007  
20 Date

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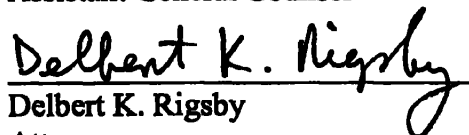
23 Thomasenia P. Duncan  
24 General Counsel

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27 Ann Marie Terzaken  
28 Acting Associate General Counsel  
29 for Enforcement

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32 Susan L. Lebeaux  
33 Assistant General Counsel

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Delbert K. Rigsby  
Attorney